

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT
STATE OF MISSOURI

TIMOTHY D. PERSON, SR.)	
)	
Plaintiff,)	
)	Cause No. 4:10cv0024TCM
vs.)	
)	
WHITE CASTLE MANAGEMENT CO.)	
Serve Registered Agent:)	

PLAINTIFF TIMOTHY D. PERSON'S TRIAL BRIEF

Comes now Plaintiff, Timothy D. Person Sr. and submits the following trial brief to the Court:

On February 29, 2008 at approximately 10:45 a.m. Tim Person, Sr. visited the White Castle Restaurant located at 1441 North Kingshighway in the City of St. Louis, Missouri 63113. Mr. Person went through the drive through window at Defendant's restaurant and ordered two cups of coffee. Plaintiff was served two cups of coffee that were filled to the rim and were exceptionally hot. Plaintiff was given no warning regarding the exceptionally hot nature of the coffee.

As the waitress at the drive through window, was handing Plaintiff his two cups of coffee the cardboard cup holder in which they were placed collapsed, bending in half, and the coffee spilled onto Plaintiff's lap, causing Plaintiff to suffer severe first and second degree burns to his groin and leg areas as a result.

Defendant's employee negligently spilled coffee on Plaintiff while she was inattentively attempting to pass the coffee to Plaintiff through the drive through window. Defendant's employee failed to make sure that Plaintiff had a complete grasp on the

coffee prior to letting the coffee go, causing the extremely hot coffee to spill onto Plaintiff, thereby causing Plaintiff severe injury. Plaintiff injuries occurred as a direct and proximate result of the negligence and carelessness of Defendant, White Castle System, Inc. and its employee, in one or more of the following respects

- i. Defendant carelessly and negligently, failed and omitted to exercise proper care and caution in ensuring that the cardboard container holding Plaintiff's coffee was secure;
- ii. Defendant carelessly and negligently, failed and omitted to exercise the highest degree of care to keep a careful lookout for the safety of Plaintiff;
- iii. Defendant failed to exercise reasonable care in order to ensure that the coffee that Plaintiff was served at Defendant's restaurant did not burn Plaintiff.
- iv. Defendant, White Castle System, Inc., failed to train its employee in proper beverage preparation and handling techniques in order to ensure that the coffee that Plaintiff was served at Defendant's restaurant did not burn Plaintiff.
- v.
- vi. Defendant failed to warn Plaintiff regarding the weak structure of its coffee holder or regarding the extremely hot temperature of the coffee being served.

As a direct and proximate result of the carelessness and negligence of Defendant, White Castle Systems, Inc. and its employee, Timothy D. Person, Sr., suffered severe first and second degree burns to his groin and leg areas. Because of this injury, Plaintiff will likely experience prolonged healing time and permanent injury.

Respectfully submitted,

BOSLEY AND ASSOCIATES, L.L.C.

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2011 the foregoing was filed with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

Kenneth M. Lander
Attorney for Defendant White Castle Management Co.

By: s/ Freeman R. Bosley